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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH

Date of Order 4.12.95.

O.A. No. 146/94.

1. Yaspal.
2. Vijaikumar.
3. Chhotelal.
4. Ravindrakumar.
5. Rajendra Prasad.
6. Lalbahadur.
7. Lalmani.
8. Ram Narain.

...Applicants.

vs.

1. Union of India
through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. Dy. Chief Engineer (Construction)
Northern Railway (Broad Gauge), Jodhpur.
3. Assistant Engineer (Construction)
Northern Railway, Jodhpur.

...Respondents.

CORAM: HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN.

HON'BLE MS. USHA SEN, ADMINISTRATIVE MEMBER.

For the applicants - Mr. R.S. Sharma, advocate.
For the respondents - Mr. V.D. Vyas, advocate.

O R D E R (ORAL)

(Hon'ble Ms. Usha Sen, Administrative Member)

Heard the learned counsel for the parties.

2. The applicants No. 1 to 5, came on transfer from P.W.I., Northern Railway, Nangal Dam to the office of Dy. Chief Engineer(Construction-I), Northern Railway, Jodhpur and were posted under the P.W.I., (C), Jodhpur. Applicants No. 6 to 8 came on transfer from the office of Assistant Engineer (Construction), Udhampur and were

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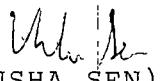
posted under P.W.I. (Construction), Pipar Road. Respondents No. 1 to 5 joined duties on 19.2.1993 after the transfer and the Applicants No. 6 to 8 on 29.6.93. The transfer orders are at Annexure R 1(1) to R 1(5). The transfer orders show that the applicants are Gangmen with temporary status. The applicants state that their services were terminated w.e.f. 11.12.93 by verbal orders. An FIR was lodged by the Asstt. Engineer (Construction), Northern Railway, Jodhpur (Respondent No.3) on 1.12.94 in the Police Station, Sardarpura, alleging that the applicants managed to join service on production of forged transfer documents. The applicants filed an OA which was registered with No. 425/93 against their alleged illegal termination from service. The OA was decided on 9.3.94 with the direction to the respondents to take steps to give temporary status to the applicants as per rules and not to terminate their services without following the due process of law. Before the final order was passed in OA No. 425/93 and after the show cause notice in this OA was served, the respondents passed orders to the effect that the applicants who according to them were absenting from duties w.e.f. 11.12.93, should be taken back on duty w.e.f. 17.2.94. The applicants have been clamouring for being granted temporary status de-facto and all the consequential benefits thereon. Their prayer has been rejected vide impugned orders dated 29.9.94 (Annexures A/1 to A/8). The reason for rejecting their prayer, as stated in the reply filed by the respondents, is that a departmental enquiry is pending against them on charges of having obtained employment with the Railways by producing forged transfer letters. Since the very legality of their engagement is "void", they are not prepared to give them the benefits of temporary status.

The respondents have referred to Annexure R/3 which states that no fresh casual labour be recruited without obtaining prior approval of the G.M. They have also stated that a criminal case has been registered against them and is pending in the CBI's court. From Annexure A/17 it is seen that the departmental enquiry was started sometime around April, 1994. The enquiry has not been completed till date although more than 1½ years have passed since its initiation.

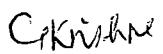
3. The respondents have not been able to show any rule of the Railways despite being specifically asked to do so, which permits with-holding of grant of temporary status pending departmental enquiry if all other conditions for grant of temporary status are fulfilled.

4. In the circumstances, we deem it appropriate to direct the respondents, which we hereby do, that the grant of temporary status to the applicants shall not be withheld merely for the reason that a departmental enquiry on various charges is continuing against them or on account of Annexure R/3 which states that no fresh recruitment of casual labour would be made without the approval of the G.M. If the applicants fulfil other conditions for grant of temporary status, the respondents shall grant the same to the applicants which shall, however, be without prejudice to appropriate action being taken against them, if necessary, on conclusion of the departmental enquiry. The respondents shall comply with this order within a period of 2 months from the date of receipt of ^acopy of this order. The OA is disposed of accordingly.

No order as to costs.


(USHA SEN)
ADMINISTRATIVE MEMBER

"MS"


(GOPAL KRISHNA)
VICE CHAIRMAN